

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 285

Introduced by Assembly Member Gallagher

February 11, 2015

An act to amend ~~Section 69921 of the Government Code, Sections 6400, 6402, 6403, 6404, 6405, 6406, 6407, and 6408 of the Business and Professions Code, relating to courts: legal assistants.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 285, as amended, Gallagher. ~~Superior courts: security. Legal assistants.~~

(1) Existing law defines and regulates the activities of legal document assistants and unlawful detainer assistants, as those terms are defined. Existing law requires a legal document assistant or unlawful detainer assistant to be registered in the county in which his or her principal place of business is located, which is deemed the primary place of registration, and in any other county in which he or she performs acts for which registration is required, which is deemed a secondary place of registration. A violation of this requirement is a misdemeanor. Existing law prohibits a legal document assistant from providing self-help service, as defined, for compensation unless he or she is registered in the county in which his or her principal place of business is located and in any other county in which he or she performs acts for which registration is required.

This bill would delete the requirement that a legal document assistant or an unlawful detainer assistant be registered in any other county in which he or she performs acts for which registration is required. The bill would also specify that a legal document assistant registered in the

county in which his or her principal place of business is located may provide self-help services in any part of this state. The bill would also delete references to primary and secondary places of registration.

(2) Existing law provides that a certificate of registration as a legal document assistant or an unlawful detainer assistant is effective for 2 years, until the date the bond required for registration expires, or until the total number of legal document assistants and unlawful detainer assistants employed by a partnership or corporation exceeds the number allowed by the bond in effect, whichever occurs first. Existing law authorizes renewal of an existing registration, which is effective for the same period.

This bill would extend the effective period for a certificate of registration and for a renewals of registration to 4 years.

(3) Existing law requires the county clerk to assign the same registration number to a legal document assistant or an unlawful detainer assistant renewing his or her registration provided that there is no lapse in the period of registration.

This bill would instead require the county clerk to assign the same registration number regardless of whether the period of registration has lapsed.

By changing the process by which county clerks renew registration of legal document assistants and unlawful detainer assistants, this bill would impose a state-mandated local program.

(4) Existing law requires a registered legal document assistant or unlawful detainer assistant to include his or her name, business address, telephone number, registration number, expiration date of the registration, and county of registration in any solicitation or advertisement, and on any papers or documents prepared or used by the registrant. A violation of this requirement is a misdemeanor.

This bill would additionally require that this information appear on the Internet Web site of the registered legal document assistant or unlawful detainer assistant. The bill would delete the requirement that the expiration date of the registration appear on these materials. The bill would also require the legal document assistant or unlawful detainer assistant to include his or her name, business address, telephone number, registration number, expiration date of the registration, and county of registration on a written contract for services required to be provided to a client.

By changing the scope of a crime, this bill would impose a state-mandated local program.

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law, the Superior Court Security Act of 2012, provides that, except as specified, the sheriff is responsible for the necessary level of court security services. Under existing law, the presiding judge, in conjunction with the sheriff or marshall, is required to develop a comprehensive court security plan that includes the mutually agreed upon law enforcement security plan to be utilized by the court.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6400 of the Business and Professions
2 Code is amended to read:

3 6400. (a) “Unlawful detainer assistant” means any individual
4 who for compensation renders assistance or advice in the
5 prosecution or defense of an unlawful detainer claim or action,
6 including any bankruptcy petition that may affect the unlawful
7 detainer claim or action.

8 (b) “Unlawful detainer claim” means a proceeding, filing, or
9 action affecting rights or liabilities of any person that arises under
10 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
11 the Code of Civil Procedure and that contemplates an adjudication
12 by a court.

13 (c) “Legal document assistant” means:

14 (1) Any person who is not exempted under Section 6401 and
15 who provides, or assists in providing, or offers to provide, or offers
16 to assist in providing, for compensation, any self-help service to
17 a member of the public who is representing himself or herself in

1 a legal matter, or who holds himself or herself out as someone who
2 offers that service or has that authority. This paragraph does not
3 apply to any individual whose assistance consists merely of
4 secretarial or receptionist services.

5 (2) A corporation, partnership, association, or other entity that
6 employs or contracts with any person not exempted under Section
7 6401 who, as part of his or her responsibilities, provides, or assists
8 in providing, or offers to provide, or offers to assist in providing,
9 for compensation, any self-help service to a member of the public
10 who is representing himself or herself in a legal matter or holds
11 himself or herself out as someone who offers that service or has
12 that authority. This paragraph does not apply to an individual
13 whose assistance consists merely of secretarial or receptionist
14 services.

15 (d) “Self-help service” means all of the following:

16 (1) Completing legal documents in a ministerial manner, selected
17 by a person who is representing himself or herself in a legal matter,
18 by typing or otherwise completing the documents at the person’s
19 specific direction.

20 (2) Providing general published factual information that has
21 been written or approved by an attorney, pertaining to legal
22 procedures, rights, or obligations to a person who is representing
23 himself or herself in a legal matter, to assist the person in
24 representing himself or herself. This service in and of itself, shall
25 not require registration as a legal document assistant.

26 (3) Making published legal documents available to a person
27 who is representing himself or herself in a legal matter.

28 (4) Filing and serving legal forms and documents at the specific
29 direction of a person who is representing himself or herself in a
30 legal matter.

31 (e) “Compensation” means money, property, or anything else
32 of value.

33 (f) A legal document assistant, including any legal document
34 assistant employed by a partnership or corporation, may not provide
35 any self-help service for compensation, unless the legal document
36 assistant is registered in the county in which his or her principal
37 place of business is ~~located and in any other county in which he~~
38 ~~or she performs acts for which registration is required.~~ *located. A*
39 *legal document assistant registered in the county in which his or*

1 *her principal place of business is located may provide self-help*
2 *services in any part of this state.*

3 (g) A legal document assistant may not provide any kind of
4 advice, explanation, opinion, or recommendation to a consumer
5 about possible legal rights, remedies, defenses, options, selection
6 of forms, or strategies. A legal document assistant shall complete
7 documents only in the manner prescribed by paragraph (1) of
8 subdivision (d).

9 *SEC. 2. Section 6402 of the Business and Professions Code is*
10 *amended to read:*

11 6402. A legal document assistant or unlawful detainer assistant
12 shall be registered pursuant to this chapter by the county clerk in
13 the county in which his or her principal place of business is located
14 ~~(deemed primary registration), and in any other county in which~~
15 ~~he or she performs acts for which registration is required (deemed~~
16 ~~secondary registration). Any registration in a county, other than~~
17 ~~the county of the person's place of business, shall state the person's~~
18 ~~principal place of business~~ and provide proof that the registrant
19 has satisfied the bonding requirement of Section 6405. No person
20 who has been disbarred or suspended from the practice of law
21 pursuant to Article 6 (commencing with Section 6100) of Chapter
22 4 may, during the period of any disbarment or suspension, register
23 as a legal document assistant or unlawful detainer assistant. The
24 Department of Consumer Affairs shall develop the application
25 required to be completed by a person for purposes of registration
26 as a legal document assistant. The application shall specify the
27 types of proof that the applicant shall provide to the county clerk
28 in order to demonstrate the qualifications and requirements of
29 Section 6402.1.

30 *SEC. 3. Section 6403 of the Business and Professions Code is*
31 *amended to read:*

32 6403. (a) The application for registration of a natural person
33 shall contain all of the following statements about the applicant:

- 34 (1) Name, age, address, and telephone number.
35 (2) Whether he or she has been convicted of a felony, or of a
36 misdemeanor under Section 6126 or 6127, or found liable under
37 Section 6126.5.
38 (3) Whether he or she has been held liable in a civil action by
39 final judgment or entry of a stipulated judgment, if the action

1 alleged fraud, the use of an untrue or misleading representation,
2 or the use of an unfair, unlawful, or deceptive business practice.

3 (4) Whether he or she has ever been convicted of a misdemeanor
4 violation of this chapter.

5 (5) Whether he or she has had a civil judgment entered against
6 him or her in an action arising out of the applicant's negligent,
7 reckless, or willful failure to properly perform his or her obligation
8 as a legal document assistant or unlawful detainer assistant.

9 (6) Whether he or she has had a registration revoked pursuant
10 to Section 6413.

11 ~~(7) Whether this is a primary or secondary registration. If it is~~
12 ~~a secondary registration, the county in which the primary~~
13 ~~registration is filed.~~

14 (b) The application for registration of a natural person shall be
15 accompanied by the display of personal identification, such as a
16 California driver's license, birth certificate, or other identification
17 acceptable to the county clerk to adequately determine the identity
18 of the applicant.

19 (c) The application for registration of a partnership or
20 corporation shall contain all of the following statements about the
21 applicant:

22 (1) The names, ages, addresses, and telephone numbers of the
23 general partners or officers.

24 (2) Whether the general partners or officers have ever been
25 convicted of a felony, or a misdemeanor under Section 6126 or
26 6127, or found liable under Section 6126.5.

27 (3) Whether the general partners or officers have ever been held
28 liable in a civil action by final judgment or entry of a stipulated
29 judgment, if the action alleged fraud, the use of an untrue or
30 misleading representation, or the use of an unfair, unlawful, or
31 deceptive business practice.

32 (4) Whether the general partners or officers have ever been
33 convicted of a misdemeanor violation of this chapter.

34 (5) Whether the general partners or officers have had a civil
35 judgment entered against them in an action arising out of a
36 negligent, reckless, or willful failure to properly perform the
37 obligations of a legal document assistant or unlawful detainer
38 assistant.

39 (6) Whether the general partners or officers have ever had a
40 registration revoked pursuant to Section 6413.

1 ~~(7) Whether this is a primary or secondary registration. If it is~~
2 ~~a secondary registration, the county in which the primary~~
3 ~~registration is filed.~~

4 (d) The applications made under this section shall be made under
5 penalty of perjury.

6 (e) The county clerk shall retain the application for registration
7 for a period of three years following the expiration date of the
8 application, after which time the application may be destroyed if
9 it is scanned or if the conditions specified in Section 26205.1 of
10 the Government Code are met. If the application is scanned, the
11 scanned image shall be retained for a period of 10 years, after
12 which time that image may be destroyed and, notwithstanding
13 Section 26205.1 of the Government Code, no reproduction thereof
14 need be made or preserved.

15 *SEC. 4. Section 6404 of the Business and Professions Code is*
16 *amended to read:*

17 6404. An applicant shall pay a fee of one hundred seventy-five
18 dollars (\$175) to the county clerk at the time he or she files an
19 application for initial ~~registration, including a primary or secondary~~
20 ~~registration~~, registration or renewal of registration. An additional
21 fee of ten dollars (\$10) shall be paid to the county clerk for each
22 additional identification card.

23 *SEC. 5. Section 6405 of the Business and Professions Code is*
24 *amended to read:*

25 6405. (a) (1) An application for a certificate of registration
26 by an individual shall be accompanied by a bond of twenty-five
27 thousand dollars (\$25,000) executed by a corporate surety qualified
28 to do business in this state and conditioned upon compliance with
29 this chapter. The total aggregate liability on the bond shall be
30 limited to twenty-five thousand dollars (\$25,000). ~~An application~~
31 ~~for secondary registration shall meet all of the requirements of this~~
32 ~~subdivision, except that in place of posting another original bond~~
33 ~~or cash deposit, the applicant shall include a certified copy of the~~
34 ~~bond or cash deposit posted in the county in which the applicant~~
35 ~~filed the primary registration.~~

36 (2) An application for a certificate of registration by a
37 partnership or corporation shall be accompanied by a bond executed
38 by a corporate surety qualified to do business in this state and
39 conditioned upon compliance with this chapter in the following
40 amount, based on the total number of legal document assistants

1 and unlawful detainer assistants employed by the partnership or
2 corporation:

3 (A) Twenty-five thousand dollars (\$25,000) for one to four
4 assistants.

5 (B) Fifty thousand dollars (\$50,000) for five to nine assistants.

6 (C) One hundred thousand dollars (\$100,000) for 10 or more
7 assistants. An application for a certificate of registration by a
8 person employed by a partnership or corporation shall be
9 accompanied by a bond of twenty-five thousand dollars (\$25,000)
10 only if the partnership or corporation has not posted a bond in the
11 amount required by this subdivision. ~~An application for secondary~~
12 ~~registration shall meet all of the requirements of this subdivision,~~
13 ~~except that in place of posting another original bond or cash~~
14 ~~deposit, the applicant shall include a certified copy of the bond or~~
15 ~~cash deposit posted in the county in which the applicant filed the~~
16 ~~primary registration.~~

17 (3) If a partnership or corporation increases the number of
18 assistants it employs above the number stated in its application for
19 a certificate of registration, the partnership or corporation shall
20 promptly increase the bond to the applicable amount in
21 subparagraphs (B) or (C) of paragraph (2) based on the actual
22 number of assistants it employs, and shall promptly submit the
23 increased bond to the county clerk. ~~The partnership or corporation~~
24 ~~shall promptly send a certified copy of the increased bond to the~~
25 ~~county clerk in any county of secondary registration.~~

26 (4) The bond may be terminated pursuant to Section 995.440
27 of, and Article 13 (commencing with Section 996.310) of Chapter
28 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

29 (b) The county clerk shall, upon filing of the bond, deliver the
30 bond forthwith to the county recorder for recording. The recording
31 fee specified in Section 27361 of the Government Code shall be
32 paid by the registrant. The fee may be paid to the county clerk who
33 shall transmit it to the recorder.

34 (c) The fee for filing, canceling, revoking, or withdrawing the
35 bond is seven dollars (\$7).

36 (d) The county recorder shall record the bond and any notice
37 of cancellation, revocation, or withdrawal of the bond, and shall
38 thereafter mail the instrument, unless specified to the contrary, to
39 the person named in the instrument and, if no person is named, to
40 the party leaving it for recording. The recording fee specified in

1 Section 27361 of the Government Code for notice of cancellation,
2 revocation, or withdrawal of the bond shall be paid to the county
3 clerk, who shall transmit it to the county recorder.

4 (e) In lieu of the bond required by subdivision (a), a registrant
5 may deposit the amount required by subdivision (a) in cash with
6 the county clerk.

7 (f) If the certificate is revoked, the bond or cash deposit shall
8 be returned to the bonding party or depositor subject to subdivision
9 (g) and the right of a person to recover against the bond or cash
10 deposit under Section 6412.

11 (g) The county clerk may retain a cash deposit until the
12 expiration of three years from the date the registrant has ceased to
13 do business, or three years from the expiration or revocation date
14 of the registration, in order to ensure there are no outstanding
15 claims against the deposit. A judge may order the return of the
16 deposit prior to the expiration of three years upon evidence
17 satisfactory to the judge that there are no outstanding claims against
18 the deposit.

19 (h) The bond required by this section shall be in favor of the
20 State of California for the benefit of any person who is damaged
21 as a result of the violation of this chapter or by the fraud,
22 dishonesty, or incompetency of an individual, partnership, or
23 corporation registered under this chapter. The bond required by
24 this section shall also indicate the name of the county in which it
25 will be filed.

26 *SEC. 6. Section 6406 of the Business and Professions Code is*
27 *amended to read:*

28 6406. (a) If granted, a certificate of registration shall be
29 effective for a period of ~~two~~ *four* years, until the date the bond
30 expires, or until the total number of legal document assistants and
31 unlawful detainer assistants employed by a partnership or
32 corporation exceeds the number allowed for the amount of the
33 bond in effect, whichever occurs first. Thereafter, a registrant shall
34 file a new certificate of registration or a renewal of the certificate
35 of registration and pay the fee required by Section 6404, and
36 increase the amount of the bond if required to comply with
37 subdivision (a) of Section 6405. A certificate of registration that
38 is currently effective may be renewed up to 60 days prior to its
39 expiration date and the effective date of the renewal shall be the
40 date the current registration expires. The renewal shall be effective

1 for a period of ~~two~~ *four* years from the effective date or until the
2 expiration date of the bond, or until the total number of legal
3 document assistants and unlawful detainer assistants employed by
4 a partnership or corporation exceeds the number allowed for the
5 dollar amount of the bond in effect, whichever occurs first.

6 (b) Except as provided in subdivisions (d) to (f), inclusive, an
7 applicant shall be denied registration or renewal of registration if
8 the applicant has been any of the following:

9 (1) Convicted of a felony, or of a misdemeanor under Section
10 6126 or 6127, or found liable under Section 6126.5.

11 (2) Held liable in a civil action by final judgment or entry of a
12 stipulated judgment, if the action alleged fraud, or the use of an
13 untrue or misleading representation, or the use of an unfair,
14 unlawful, or deceptive business practice.

15 (3) Convicted of a misdemeanor violation of this chapter.

16 (4) Had a civil judgment entered against him or her in an action
17 arising out of the applicant's negligent, reckless, or willful failure
18 to properly perform his or her obligation as a legal document
19 assistant or unlawful detainer assistant.

20 (5) Had his or her registration revoked pursuant to Section 6413.

21 (c) If the county clerk finds that the applicant has failed to
22 demonstrate having met the requisite requirements of Section 6402
23 or 6402.1, or that any of the paragraphs of subdivision (b) apply,
24 the county clerk, within three business days of submission of the
25 application and fee, shall return the application and fee to the
26 applicant with a notice to the applicant indicating the reason for
27 the denial and the method of appeal.

28 (d) The denial of an application may be appealed by the
29 applicant by submitting, to the director, the following:

30 (1) The completed application and notice from the county clerk
31 specifying the reasons for the denial of the application.

32 (2) A copy of any final judgment or order that resulted from
33 any conviction or civil judgment listed on the application.

34 (3) Any relevant information the applicant wishes to include
35 for the record.

36 (e) The director shall order the applicant's certificate of
37 registration to be granted if the director determines that the issuance
38 of a certificate of registration is not likely to expose consumers to
39 a significant risk of harm based on a review of the application and
40 any other information relating to the applicant's unlawful act or

unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall order the applicant's certificate of registration to be denied if the director determines that issuance of a certificate of registration is likely to expose consumers to a significant risk of harm based on a review of the application and any other information relating to the applicant's unlawful act or unfair practice described in paragraphs (1) to (5), inclusive, of subdivision (b). The director shall send to the applicant and the county clerk a written decision listing the reasons registration shall be granted or denied within 30 days of the submission of the matter.

(f) If the director orders that the certificate of registration be granted, the applicant may resubmit the application, with the appropriate application fee and the written decision of the director. The county clerk shall grant the certificate of registration to the applicant within three business days of being supplied this information.

SEC. 7. Section 6407 of the Business and Professions Code is amended to read:

6407. (a) The county clerk shall maintain a register of legal document assistants, and a register of unlawful detainer assistants, assign a unique number to each legal document assistant, or unlawful detainer assistant, and issue an identification card to each one. Upon renewal of registration, the same number shall be assigned, ~~provided there is no lapse in the period of registration.~~ assigned.

(b) The identification card shall be a card not less than 3 ¼ by 2 inches, and shall contain at the top, the title "Legal Document Assistant" or "Unlawful Detainer Assistant," as appropriate, followed by the registrant's name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner. The identification card for a partnership or corporation registration shall be issued in the name of the partnership or corporation, and shall not contain a photograph. The front of the card, above the title, shall also contain the following statement in 12-point boldface type: "This person is not a lawyer." The front of the card, at the bottom, shall also contain the following statement in 12-point boldface type: "The county clerk has not evaluated this person's knowledge, experience, or services."

1 *SEC. 8. Section 6408 of the Business and Professions Code is*
2 *amended to read:*

3 6408. The registrant's name, business address, telephone
4 number, registration number, ~~expiration date of the registration,~~
5 and county of registration shall appear in any solicitation or
6 advertisement, *Internet Web site*, and on any papers or documents
7 prepared or used by the registrant, including, but not limited to,
8 contracts, letterhead, business cards, correspondence, documents,
9 forms, claims, petitions, checks, receipts, ~~money orders,~~ and
10 pleadings. *The registrant's name, business address, telephone*
11 *number, registration number, expiration date of the registration,*
12 *and county of registration shall appear on the written contract*
13 *required to be provided to a client pursuant to Section 6410.*

14 *SEC. 9. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution for certain*
16 *costs that may be incurred by a local agency or school district*
17 *because, in that regard, this act creates a new crime or infraction,*
18 *eliminates a crime or infraction, or changes the penalty for a crime*
19 *or infraction, within the meaning of Section 17556 of the*
20 *Government Code, or changes the definition of a crime within the*
21 *meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 *However, if the Commission on State Mandates determines that*
24 *this act contains other costs mandated by the state, reimbursement*
25 *to local agencies and school districts for those costs shall be made*
26 *pursuant to Part 7 (commencing with Section 17500) of Division*
27 *4 of Title 2 of the Government Code.*

28 ~~SECTION 1. Section 69921 of the Government Code is~~
29 ~~amended to read:~~

30 ~~69921. For purposes of this article, the following definitions~~
31 ~~shall have the following meanings:~~

32 ~~(a) "Court attendant" means a nonarmed, nonlaw enforcement~~
33 ~~employee of the superior court who performs those functions~~
34 ~~specified by the court, except those functions that may only be~~
35 ~~performed by armed and sworn personnel. A court attendant is not~~
36 ~~a peace officer or a public safety officer.~~

37 ~~(b) "Court security plan" means a plan that is provided by the~~
38 ~~superior court to the Administrative Office of the Courts and~~
39 ~~includes a law enforcement security plan and all other court~~
40 ~~security matters.~~

1 ~~(e) “Law enforcement security plan” means a plan that is~~
2 ~~provided by a sheriff or marshal and includes policies and~~
3 ~~procedures for providing public safety and law enforcement~~
4 ~~services to the court.~~
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